

THIS AMENDMENT
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2003 FEB 20 P 3: 52

AZ CORP COMMISSION
DOCUMENT CONTROL

MUNDELL PROPOSED AMENDMENT 4

TIME/DATE PREPARED: Thursday, February 20, 2003

- E-00000A-02-0051
- E-01345A-01-0822
- E-00000A-01-0630
- E-01933A-02-0069

COMPANY: Generic Restructuring -Track B

AGENDA ITEM NO. 1

DOCKET NO. E-00000A-02-0051 et al

OPEN MEETING DATE: February 21, 2003

**INSPECTION OF PLANTS/DETERRENT
AGAINST MARKET MANIPULATION**

PAGE 64, LINE 12, INSERT:

The Commission notes that the Detailed Staff Proposed Solicitation Process requires each bidder must agree to permit the Commission Staff to inspect any generating facility the bidder owns or controls from which it proposes to provide capacity or energy to any Arizona utility pursuant to any contract awarded as a result of this solicitation. This important provision will aid the Commission in ensuring that any claimed outages by a successful bidder are legitimate and not used as a tool for market manipulation. The Commission also notes that additional safeguards against market manipulation in Arizona are necessary to protect the fundamental fairness of the solicitation process and the public interest at stake for Arizona electric consumers. Therefore, the Commission requires that in addition, each bidder provides written assurance as guarantees that it will not engage in unlawful market manipulation in either the solicitation process or in carrying out of its contract if it is a successful bidder. Likewise, similar written assurances shall also be required of the bidding entities' chief financial officers that will serve as guarantees that the bidding entity is not and shall not engage in any unlawful market manipulation in the Western Interconnection wholesale market of which Arizona is a part. Specifically, the written assurances shall provide that a bidder's failure to abide by the written assurances/guarantees will constitute grounds for the institution of Commission proceedings to determine whether the bidder or its officers are in violation of the assurances/guarantees. If the assurances/guarantees against market manipulation are determined to have been violated, the Commission in its discretion shall be entitled to take appropriate action, including but not limited to penalties, fines, recession of the contract and/or exclusion from future solicitation processes. To carry out this requirement, Staff is directed to include these provisions as part of the solicitation process.

Arizona Corporation Commission
DOCKETED

FEB 20 2003

DOCKETED BY

PAGE 68, LINE 3

INSERT New Finding of Fact 26: (and renumber accordingly)

26. The Detailed Staff Proposed Solicitation Process requires each bidder must agree to permit the Commission Staff to inspect any generating facility the bidder owns or controls from which it proposes to provide capacity or energy to any Arizona utility pursuant to any contract awarded as a result of this solicitation. This important provision will aid the Commission in ensuring that any claimed outages by a successful bidder are legitimate and not used as a tool for market manipulation. Additional safeguards against market manipulation in Arizona are necessary to protect the fundamental fairness of the solicitation process and the public interest at stake for Arizona electric consumers. Therefore, the Commission requires that in addition, each bidder provides written assurances as guarantees that it will not engage in unlawful market manipulation in either the solicitation process or in carrying out of its contract if it is a successful bidder. Likewise, similar written assurance shall also be required of the bidding entities' chief financial officers that will serve as guarantees that the bidding entity is not and shall not engage in any unlawful market manipulation in the Western Interconnection wholesale market of which Arizona is a part. Specifically, the written assurances shall provide that a bidder's failure to abide by the written assurances/guarantees will constitute grounds for the institution of Commission proceedings to determine whether the bidder or its officers are in violation of the assurances/guarantees. If the assurances/guarantees against market manipulation are determined to have been violated, the Commission in its discretion shall be entitled to take appropriate action, including but not limited to penalties, fines, recession of the contract and/or exclusion from future solicitation processes. Staff is directed to include these requirements in the solicitation process.

PAGE 76, LINE 5

INSERT new ordering paragraph:

IT IS THEREFORE ORDERED that all bidders shall comply with the Detailed Staff Proposed Solicitation Process and permit plant inspections, and shall also provide written assurances that serve as guarantees against a bidder's engaging in unlawful market manipulation as discussed in this Order and Finding of Fact 26.